

Senate Bill No. 1690

CHAPTER 760

An act to amend Sections 148.1, 148.5, 148.9, 150, 190, 12027, and 12031 of the Penal Code, relating to peace officers.

[Approved by Governor September 22, 1998. Filed
with Secretary of State September 23, 1998.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1690, Rainey. Peace officers.

Existing law makes it a felony or a misdemeanor for any person who reports to any of certain specified peace officers that a bomb or other explosive has been or will be placed or secreted in any public or private place, knowing that the report is false.

Existing law makes it a misdemeanor for any person who reports to any of certain specified peace officers that a felony or misdemeanor has been committed, knowing the report to be false.

Existing law makes it a misdemeanor for any person who falsely represents or identifies himself or herself as another person or as a fictitious person to any of certain specified peace officers, upon a lawful detention or arrest of the person, either to evade the process of the court, or to evade the proper identification of the person by the investigating officer.

Under existing law, every able-bodied adult who neglects or refuses to join the posse comitatus or power of the county, as specified, being thereto lawfully required by any uniformed peace officer, or by any of certain specified peace officers who identifies himself or herself with a badge or identification card issued by the officer's employing agency, or by any judge, is punishable by a fine of not less than \$50 nor more than \$1,000.

Existing law, amended by initiative statute, prescribes an increased term of imprisonment for any person guilty of murder in the 2nd degree if the victim was any of certain specified peace officers, who was killed while engaged in the performance of his or her duties, and the defendant knew, or reasonably should have known, that the victim was a peace officer engaged in the performance of his or her duties.

Existing law exempts specified peace officers and retired peace officers from general prohibitions against carrying a concealed or loaded firearm.

This bill would make these provisions applicable to members of the San Francisco Bay Area Rapid Transit District Police Department, the University of California Police Department, and the California State University Police Departments. By expanding the scope of

existing crimes with respect to these peace officers, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

This bill would incorporate additional amendments to Section 190 of the Penal Code proposed by Chapter 413 of the Statutes of 1997 but not yet approved by the voters, to be operative if that chapter is approved by the voters at a statewide general election held in 1998.

The bill would provide that its provisions amending Section 190 of the Penal Code shall become effective only when submitted to, and approved by, the voters.

The people of the State of California do enact as follows:

SECTION 1. Section 148.1 of the Penal Code is amended to read:

148.1. (a) Any person who reports to any peace officer listed in Section 830.1 or 830.2, or subdivision (a) of Section 830.33, employee of a fire department or fire service, district attorney, newspaper, radio station, television station, deputy district attorney, employees of the Department of Justice, employees of an airline, employees of an airport, employees of a railroad or busline, an employee of a telephone company, occupants of a building or a news reporter in the employ of a newspaper or radio or television station, that a bomb or other explosive has been or will be placed or secreted in any public or private place, knowing that the report is false, is guilty of a crime punishable by imprisonment in the state prison, or imprisonment in the county jail not to exceed one year.

(b) Any person who reports to any other peace officer defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 that a bomb or other explosive has been or will be placed or secreted in any public or private place, knowing that the report is false, is guilty of a crime punishable by imprisonment in the state prison or in the county jail not to exceed one year if (1) the false information is given while the peace officer is engaged in the performance of his or her duties as a peace officer and (2) the person providing the false information knows or should have known that the person receiving the information is a peace officer.

(c) Any person who maliciously informs any other person that a bomb or other explosive has been or will be placed or secreted in any public or private place, knowing that the information is false, is guilty of a crime punishable by imprisonment in the state prison, or imprisonment in the county jail not to exceed one year.



(d) Any person who maliciously gives, mails, sends, or causes to be sent any false or facsimile bomb to another person, or places, causes to be placed, or maliciously possesses any false or facsimile bomb, with the intent to cause another to fear for his or her personal safety or the safety of others, is guilty of a crime punishable by imprisonment in the state prison, or imprisonment in the county jail not to exceed one year.

SEC. 2. Section 148.5 of the Penal Code is amended to read:

148.5. (a) Every person who reports to any peace officer listed in Section 830.1 or 830.2, or subdivision (a) of Section 830.33, district attorney, or deputy district attorney that a felony or misdemeanor has been committed, knowing the report to be false, is guilty of a misdemeanor.

(b) Every person who reports to any other peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, that a felony or misdemeanor has been committed, knowing the report to be false, is guilty of a misdemeanor if (1) the false information is given while the peace officer is engaged in the performance of his or her duties as a peace officer and (2) the person providing the false information knows or should have known that the person receiving the information is a peace officer.

(c) Except as provided in subdivisions (a) and (b), every person who reports to any employee who is assigned to accept reports from citizens, either directly or by telephone, and who is employed by a state or local agency which is designated in Section 830.1, 830.2, subdivision (e) of Section 830.3, Section 830.31, 830.32, 830.33, 830.34, 830.35, 830.36, 830.37, or 830.4, that a felony or misdemeanor has been committed, knowing the report to be false, is guilty of a misdemeanor if (1) the false information is given while the employee is engaged in the performance of his or her duties as an agency employee and (2) the person providing the false information knows or should have known that the person receiving the information is an agency employee engaged in the performance of the duties described in this subdivision.

(d) Every person who makes a report to a grand jury that a felony or misdemeanor has been committed, knowing the report to be false, is guilty of a misdemeanor. This subdivision shall not be construed as prohibiting or precluding a charge of perjury or contempt for any report made under oath in an investigation or proceeding before a grand jury.

(e) This section does not apply to reports made by persons who are required by statute to report known or suspected instances of child abuse, dependent adult abuse, or elder abuse.

SEC. 3. Section 148.9 of the Penal Code is amended to read:

148.9. (a) Any person who falsely represents or identifies himself or herself as another person or as a fictitious person to any peace officer listed in Section 830.1 or 830.2, or subdivision (a) of Section

830.33, upon a lawful detention or arrest of the person, either to evade the process of the court, or to evade the proper identification of the person by the investigating officer is guilty of a misdemeanor.

(b) Any person who falsely represents or identifies himself or herself as another person or as a fictitious person to any other peace officer defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, upon lawful detention or arrest of the person, either to evade the process of the court, or to evade the proper identification of the person by the arresting officer is guilty of a misdemeanor if (1) the false information is given while the peace officer is engaged in the performance of his or her duties as a peace officer and (2) the person providing the false information knows or should have known that the person receiving the information is a peace officer.

SEC. 4. Section 150 of the Penal Code is amended to read:

150. Every able-bodied person above 18 years of age who neglects or refuses to join the posse comitatus or power of the county, by neglecting or refusing to aid and assist in taking or arresting any person against whom there may be issued any process, or by neglecting to aid and assist in retaking any person who, after being arrested or confined, may have escaped from arrest or imprisonment, or by neglecting or refusing to aid and assist in preventing any breach of the peace, or the commission of any criminal offense, being thereto lawfully required by any uniformed peace officer, or by any peace officer described in Section 830.1, subdivision (a), (b), (c), (d), (e), or (f) of Section 830.2, or subdivision (a) of Section 830.33, who identifies himself or herself with a badge or identification card issued by the officer's employing agency, or by any judge, is punishable by a fine of not less than fifty dollars (\$50) nor more than one thousand dollars (\$1,000).

SEC. 5. Section 190 of the Penal Code, as amended by Proposition 179 at the June 7, 1994, statewide primary election, is amended to read:

190. (a) Every person guilty of murder in the first degree shall be punished by death, imprisonment in the state prison for life without the possibility of parole, or imprisonment in the state prison for a term of 25 years to life. The penalty to be applied shall be determined as provided in Sections 190.1, 190.2, 190.3, 190.4, and 190.5.

Except as provided in subdivision (b) or (c), every person guilty of murder in the second degree shall be punished by imprisonment in the state prison for a term of 15 years to life.

Except as provided in subdivision (b), Article 2.5 (commencing with Section 2930) of Chapter 7 of Title 1 of Part 3 shall apply to reduce any minimum term of 15, 20, or 25 years in the state prison imposed pursuant to this section, but the person shall not otherwise be released on parole prior to that time.



(b) Every person guilty of murder in the second degree shall be punished by imprisonment in the state prison for a term of 25 years to life if the victim was a peace officer, as defined in subdivision (a) of Section 830.1, subdivision (a), (b), or (c) of Section 830.2, subdivision (a) of Section 830.33, or Section 830.5, who was killed while engaged in the performance of his or her duties, and the defendant knew, or reasonably should have known, that the victim was a peace officer engaged in the performance of his or her duties.

Article 2.5 (commencing with Section 2930) of Chapter 7 of Title 1 of Part 3 shall not apply to reduce any minimum term of 25 years in the state prison when the person is guilty of murder in the second degree and the victim was a peace officer, as defined in this subdivision, and the person shall not be released prior to serving 25 years' imprisonment.

(c) Every person guilty of murder in the second degree shall be punished by imprisonment in the state prison for a term of 20 years to life if the killing was perpetrated by means of shooting a firearm from a motor vehicle, intentionally at another person outside of the vehicle with the intent to inflict great bodily injury.

Article 2.5 (commencing with Section 2930) of Chapter 7 of Title 1 of Part 3 shall apply to reduce any minimum term of 20 years in the state prison when the person is guilty of murder in the second degree and is subject to this subdivision, but the person shall not otherwise be released on parole prior to that time.

SEC. 6. Section 190 of the Penal Code, as amended by Section 1 of Chapter 413 of the Statutes of 1997, is amended to read:

190. (a) Every person guilty of murder in the first degree shall be punished by death, imprisonment in the state prison for life without the possibility of parole, or imprisonment in the state prison for a term of 25 years to life. The penalty to be applied shall be determined as provided in Sections 190.1, 190.2, 190.3, 190.4, and 190.5.

Except as provided in subdivision (b), (c), or (d), every person guilty of murder in the second degree shall be punished by imprisonment in the state prison for a term of 15 years to life.

(b) Except as provided in subdivision (c), every person guilty of murder in the second degree shall be punished by imprisonment in the state prison for a term of 25 years to life if the victim was a peace officer, as defined in subdivision (a) of Section 830.1, subdivision (a), (b), or (c) of Section 830.2, subdivision (a) of Section 830.33, or Section 830.5, who was killed while engaged in the performance of his or her duties, and the defendant knew, or reasonably should have known, that the victim was a peace officer engaged in the performance of his or her duties.

(c) Every person guilty of murder in the second degree shall be punished by imprisonment in the state prison for a term of life without the possibility of parole if the victim was a peace officer, as



defined in subdivision (a) of Section 830.1, subdivision (a), (b), or (c) of Section 830.2, subdivision (a) of Section 830.33, or Section 830.5, who was killed while engaged in the performance of his or her duties, and the defendant knew, or reasonably should have known, that the victim was a peace officer engaged in the performance of his or her duties, and any of the following facts has been charged and found true:

- (1) The defendant specifically intended to kill the peace officer.
- (2) The defendant specifically intended to inflict great bodily injury, as defined in Section 12022.7, on a peace officer.
- (3) The defendant personally used a dangerous or deadly weapon in the commission of the offense, in violation of subdivision (b) of Section 12022.
- (4) The defendant personally used a firearm in the commission of the offense, in violation of Section 12022.5.
- (d) Every person guilty of murder in the second degree shall be punished by imprisonment in the state prison for a term of 20 years to life if the killing was perpetrated by means of shooting a firearm from a motor vehicle, intentionally at another person outside of the vehicle with the intent to inflict great bodily injury.
- (e) Article 2.5 (commencing with Section 2930) of Chapter 7 of Title 1 of Part 3 shall not apply to reduce any minimum term of a sentence imposed pursuant to this section. A person sentenced pursuant to this section shall not be released on parole prior to serving the minimum term of confinement prescribed by this section.

SEC. 7. Section 12027 of the Penal Code is amended to read:

12027. Section 12025 does not apply to, or affect, any of the following:

- (a) (1) (A) Any peace officer, listed in Section 830.1 or 830.2, or subdivision (a) of Section 830.33, whether active or honorably retired, other duly appointed peace officers, honorably retired peace officers listed in subdivision (c) of Section 830.5, other honorably retired peace officers who during the course and scope of their employment as peace officers were authorized to, and did, carry firearms, full-time paid peace officers of other states and the federal government who are carrying out official duties while in California, or any person summoned by any of these officers to assist in making arrests or preserving the peace while he or she is actually engaged in assisting that officer. Any peace officer described in this paragraph who has been honorably retired shall be issued an identification certificate by the law enforcement agency from which the officer has retired. The issuing agency may charge a fee necessary to cover any reasonable expenses incurred by the agency in issuing certificates pursuant to this subdivision. As used in this section and Section 12031, the term “honorably retired” includes all peace officers who have qualified for, and have accepted, a service or disability retirement.



For purposes of this section and Section 12031, the term “honorably retired” does not include an officer who has agreed to a service retirement in lieu of termination.

(B) Any officer, except an officer listed in Section 830.1 or 830.2, subdivision (a) of Section 830.33, or subdivision (c) of Section 830.5 who retired prior to January 1, 1981, shall have an endorsement on the identification certificate stating that the issuing agency approves the officer’s carrying of a concealed firearm.

(C) No endorsement or renewal endorsement issued pursuant to paragraph (2) shall be effective unless it is in the format set forth in subparagraph (D), except that any peace officer listed in subdivision (f) of Section 830.2 or in subdivision (c) of Section 830.5, who is retired between January 2, 1981, and on or before December 31, 1988, and who is authorized to carry a concealed firearm pursuant to this section, shall not be required to have an endorsement in the format set forth in subparagraph (D) until the time of the issuance, on or after January 1, 1989, of a renewal endorsement pursuant to paragraph (2).

(D) A certificate issued pursuant to this paragraph for persons who are not listed in Section 830.1 or 830.2, subdivision (a) of Section 830.33, or subdivision (c) of Section 830.5 or for persons retiring after January 1, 1981, shall be in the following format: it shall be on a 2×3 inch card, bear the photograph of the retiree, the retiree’s name, address, date of birth, the date that the retiree retired, name and address of the agency from which the retiree retired, have stamped on it the endorsement “CCW Approved” and the date the endorsement is to be renewed.

(E) For purposes of this section and Section 12031, “CCW” means “carry concealed weapons.”

(2) A retired peace officer, except an officer listed in Section 830.1 or 830.2, subdivision (a) of Section 830.33, or subdivision (c) of Section 830.5 who retired prior to January 1, 1981, shall petition the issuing agency for the renewal of his or her privilege to carry a concealed firearm every five years. An honorably retired peace officer listed in Section 830.1 or 830.2, subdivision (a) of Section 830.33, or subdivision (c) of Section 830.5 who retired prior to January 1, 1981, shall not be required to obtain an endorsement from the issuing agency to carry a concealed firearm. The agency from which a peace officer is honorably retired may, upon initial retirement of that peace officer, or at any time subsequent thereto, deny or revoke for good cause the retired officer’s privilege to carry a concealed firearm. A peace officer who is listed in Section 830.1 or 830.2, subdivision (a) of Section 830.33, or subdivision (c) of Section 830.5 who retired prior to January 1, 1981, shall have his or her privilege to carry a concealed firearm denied or revoked by having the agency from which the officer retired stamp on the officer’s identification certificate “No CCW privilege.”



(3) An honorably retired peace officer who is listed in subdivision (c) of Section 830.5 and authorized to carry concealed firearms by this subdivision shall meet the training requirements of Section 832 and shall qualify with the firearm at least annually. The individual retired peace officer shall be responsible for maintaining his or her eligibility to carry a concealed firearm. The Department of Justice shall provide subsequent arrest notification pursuant to Section 11105.2 regarding honorably retired peace officers listed in subdivision (c) of Section 830.5 to the agency from which the officer has retired.

(b) The possession or transportation of unloaded pistols, revolvers, or other firearms capable of being concealed upon the person as merchandise by a person who is engaged in the business of manufacturing, importing, wholesaling, repairing, or dealing in firearms and who is licensed to engage in that business or the authorized representative or authorized agent of that person while engaged in the lawful course of the business.

(c) Members of the Army, Navy, Air Force, Coast Guard, or Marine Corps of the United States, or the National Guard, when on duty, or organizations which are by law authorized to purchase or receive those weapons from the United States or this state.

(d) The carrying of unloaded pistols, revolvers, or other firearms capable of being concealed upon the person by duly authorized military or civil organizations while parading, or the members thereof when going to and from the places of meeting of their respective organizations.

(e) Guards or messengers of common carriers, banks, and other financial institutions while actually employed in and about the shipment, transportation, or delivery of any money, treasure, bullion, bonds, or other thing of value within this state.

(f) Members of any club or organization organized for the purpose of practicing shooting at targets upon established target ranges, whether public or private, while the members are using pistols, revolvers, or other firearms capable of being concealed upon the person upon the target ranges, or transporting these firearms unloaded when going to and from the ranges.

(g) Licensed hunters or fishermen carrying pistols, revolvers, or other firearms capable of being concealed upon the person while engaged in hunting or fishing, or transporting those firearms unloaded when going to or returning from the hunting or fishing expedition.

(h) Transportation of unloaded firearms by a person operating a licensed common carrier or an authorized agent or employee thereof when transported in conformance with applicable federal law.

(i) Upon approval of the sheriff of the county in which they reside, honorably retired federal officers or agents of federal law enforcement agencies, including, but not limited to, the Federal

Bureau of Investigation, the Secret Service, the United States Customs Service, the Federal Bureau of Alcohol, Tobacco, and Firearms, the Federal Bureau of Narcotics, the Drug Enforcement Administration, the United States Border Patrol, and officers or agents of the Internal Revenue Service who were authorized to carry weapons while on duty, who were assigned to duty within the state for a period of not less than one year, or who retired from active service in the state.

Retired federal officers or agents shall provide the sheriff with certification from the agency from which they retired certifying their service in the state, the nature of their retirement, and indicating the agency's concurrence that the retired federal officer or agent should be accorded the privilege of carrying a concealed firearm.

Upon that approval, the sheriff shall issue a permit to the retired federal officer or agent indicating that he or she may carry a concealed firearm in accordance with this subdivision. The permit shall be valid for a period not exceeding five years, shall be carried by the retiree while carrying a concealed firearm, and may be revoked for good cause.

The sheriff of the county in which the retired federal officer or agent resides may require recertification prior to a permit renewal, and may suspend the privilege for cause. The sheriff may charge a fee necessary to cover any reasonable expenses incurred by the county.

(j) The carrying of a pistol, revolver, or other firearm capable of being concealed upon the person by a person who is authorized to carry that weapon in a concealed manner pursuant to Article 3 (commencing with Section 12050).

SEC. 8. Section 12031 of the Penal Code is amended to read:

12031. (a) (1) A person is guilty of carrying a loaded firearm when he or she carries a loaded firearm on his or her person or in a vehicle while in any public place or on any public street in an incorporated city or in any public place or on any public street in a prohibited area of unincorporated territory.

(2) Carrying a loaded firearm in violation of this section is punishable, as follows:

(A) Where the person previously has been convicted of any felony, or of any crime made punishable by this chapter, as a felony.

(B) Where the firearm is stolen and the person knew or had reasonable cause to believe that it was stolen, as a felony.

(C) Where the person is an active participant in a criminal street gang, as defined in subdivision (a) of Section 186.22, under the Street Terrorism Enforcement and Prevention Act (Chapter 11 (commencing with Section 18620) of Title 7 of Part 1), as a felony.

(D) Where the person is not in lawful possession of the firearm, as defined in this section, or is within a class of persons prohibited from possessing or acquiring a firearm pursuant to Section 12021 or



12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code, as a felony.

(E) Where the person has been convicted of a crime against a person or property, or of a narcotics or dangerous drug violation, by imprisonment in the state prison, or by imprisonment in a county jail not to exceed one year, by a fine not to exceed one thousand dollars (\$1,000), or by both that imprisonment and fine.

(F) In all cases other than those specified in subparagraphs (A) to (E), inclusive, as a misdemeanor, punishable by imprisonment in a county jail not to exceed one year, by a fine not to exceed one thousand dollars (\$1,000), or by both that imprisonment and fine.

(G) For purposes of this section, “lawful possession of the firearm” means that the person who has possession or custody of the firearm either owns the firearm or has the permission of the owner or a person who otherwise has apparent authority to possess or have custody of the firearm. A person who takes a firearm without the permission of the owner or without the permission of a person who has custody of the firearm does not have lawful possession of the firearm.

(3) Nothing in this section shall preclude prosecution under Sections 12021 and 12021.1 of this code, Section 8100 or 8103 of the Welfare and Institutions Code, or any other law with a greater penalty than this section.

(4) Notwithstanding paragraphs (2) and (3) of subdivision (a) of Section 836, a peace officer may make an arrest without a warrant:

(A) When the person arrested has violated this section, although not in the officer’s presence.

(B) Whenever the officer has reasonable cause to believe that the person to be arrested has violated this section, whether or not this section has, in fact, been violated.

(5) (A) Every person convicted under this section who has previously been convicted of an offense enumerated in Section 12001.6, or of any crime made punishable under this chapter, shall serve a term of at least three months in a county jail, or, if granted probation or if the execution or imposition of sentence is suspended, it shall be a condition thereof that he or she be imprisoned for a period of at least three months.

(B) The court shall apply the three-month minimum sentence except in unusual cases where the interests of justice would best be served by granting probation or suspending the imposition or execution of sentence without the minimum imprisonment required in this subdivision or by granting probation or suspending the imposition or execution of sentence with conditions other than those set forth in this subdivision, in which case, the court shall specify on the record and shall enter on the minutes the circumstances indicating that the interests of justice would best be served by that disposition.



(6) A violation of this section which is punished by imprisonment in a county jail not exceeding one year shall not constitute a conviction of a crime punishable by imprisonment for a term exceeding one year for the purposes of determining federal firearms eligibility under Section 922(g)(1) of Title 18 of the United States Code.

(b) Subdivision (a) shall not apply to any of the following:

(1) Peace officers listed in Section 830.1 or 830.2, or subdivision (a) of Section 830.33, whether active or honorably retired, other duly appointed peace officers, honorably retired peace officers listed in subdivision (c) of Section 830.5, other honorably retired peace officers who during the course and scope of their employment as peace officers were authorized to, and did, carry firearms, full-time paid peace officers of other states and the federal government who are carrying out official duties while in California, or any person summoned by any of those officers to assist in making arrests or preserving the peace while the person is actually engaged in assisting that officer. Any peace officer described in this paragraph who has been honorably retired shall be issued an identification certificate by the law enforcement agency from which the officer has retired. The issuing agency may charge a fee necessary to cover any reasonable expenses incurred by the agency in issuing certificates pursuant to this paragraph and paragraph (3).

Any officer, except an officer listed in Section 830.1 or 830.2, subdivision (a) of Section 830.33, or subdivision (c) of Section 830.5 who retired prior to January 1, 1981, shall have an endorsement on the identification certificate stating that the issuing agency approves the officer's carrying of a loaded firearm.

No endorsement or renewal endorsement issued pursuant to paragraph (2) shall be effective unless it is in the format set forth in subparagraph (D) of paragraph (1) of subdivision (a) of Section 12027, except that any peace officer listed in subdivision (f) of Section 830.2 or in subdivision (c) of Section 830.5, who is retired between January 2, 1981, and on or before December 31, 1988, and who is authorized to carry a loaded firearm pursuant to this section, shall not be required to have an endorsement in the format set forth in subparagraph (D) of paragraph (1) of subdivision (a) of Section 12027 until the time of the issuance, on or after January 1, 1989, of a renewal endorsement pursuant to paragraph (2).

(2) A retired peace officer, except an officer listed in Section 830.1 or 830.2, subdivision (a) of Section 830.33, or subdivision (c) of Section 830.5 who retired prior to January 1, 1981, shall petition the issuing agency for renewal of his or her privilege to carry a loaded firearm every five years. An honorably retired peace officer listed in Section 830.1 or 830.2, subdivision (a) of Section 830.33, or subdivision (c) of Section 830.5 who retired prior to January 1, 1981, shall not be required to obtain an endorsement from the issuing agency to carry

a loaded firearm. The agency from which a peace officer is honorably retired may, upon initial retirement of the peace officer, or at any time subsequent thereto, deny or revoke for good cause the retired officer's privilege to carry a loaded firearm. A peace officer who is listed in Section 830.1 or 830.2, subdivision (a) of Section 830.33, or subdivision (c) of Section 830.5 who is retired prior to January 1, 1981, shall have his or her privilege to carry a loaded firearm denied or revoked by having the agency from which the officer retired stamp on the officer's identification certificate "No CCW privilege."

(3) An honorably retired peace officer who is listed in subdivision (c) of Section 830.5 and authorized to carry loaded firearms by this subdivision shall meet the training requirements of Section 832 and shall qualify with the firearm at least annually. The individual retired peace officer shall be responsible for maintaining his or her eligibility to carry a loaded firearm. The Department of Justice shall provide subsequent arrest notification pursuant to Section 11105.2 regarding honorably retired peace officers listed in subdivision (c) of Section 830.5 to the agency from which the officer has retired.

(4) Members of the military forces of this state or of the United States engaged in the performance of their duties.

(5) Persons who are using target ranges for the purpose of practice shooting with a firearm or who are members of shooting clubs while hunting on the premises of those clubs.

(6) The carrying of pistols, revolvers, or other firearms capable of being concealed upon the person by persons who are authorized to carry those weapons pursuant to Article 3 (commencing with Section 12050) of Chapter 1 of Title 2 of Part 4.

(7) Armored vehicle guards, as defined in Section 7521 of the Business and Professions Code, (A) if hired prior to January 1, 1977, or (B) if hired on or after that date, if they have received a firearms qualification card from the Department of Consumer Affairs, in each case while acting within the course and scope of their employment.

(8) Upon approval of the sheriff of the county in which they reside, honorably retired federal officers or agents of federal law enforcement agencies, including, but not limited to, the Federal Bureau of Investigation, the Secret Service, the United States Customs Service, the Federal Bureau of Alcohol, Tobacco, and Firearms, the Federal Bureau of Narcotics, the Drug Enforcement Administration, the United States Border Patrol, and officers or agents of the Internal Revenue Service who were authorized to carry weapons while on duty, who were assigned to duty within the state for a period of not less than one year, or who retired from active service in the state.

Retired federal officers or agents shall provide the sheriff with certification from the agency from which they retired certifying their service in the state, the nature of their retirement, and indicating the

agency's concurrence that the retired federal officer or agent should be accorded the privilege of carrying a loaded firearm.

Upon approval, the sheriff shall issue a permit to the retired federal officer or agent indicating that he or she may carry a loaded firearm in accordance with this paragraph. The permit shall be valid for a period not exceeding five years, shall be carried by the retiree while carrying a loaded firearm, and may be revoked for good cause.

The sheriff of the county in which the retired federal officer or agent resides may require recertification prior to a permit renewal, and may suspend the privilege for cause. The sheriff may charge a fee necessary to cover any reasonable expenses incurred by the county.

(c) Subdivision (a) shall not apply to any of the following who have completed a regular course in firearms training approved by the Commission on Peace Officer Standards and Training:

(1) Patrol special police officers appointed by the police commission of any city, county, or city and county under the express terms of its charter who also, under the express terms of the charter, (A) are subject to suspension or dismissal after a hearing on charges duly filed with the commission after a fair and impartial trial, (B) are not less than 18 years of age or more than 40 years of age, (C) possess physical qualifications prescribed by the commission, and (D) are designated by the police commission as the owners of a certain beat or territory as may be fixed from time to time by the police commission.

(2) The carrying of weapons by animal control officers or zookeepers, regularly compensated as such by a governmental agency when acting in the course and scope of their employment and when designated by a local ordinance or, if the governmental agency is not authorized to act by ordinance, by a resolution, either individually or by class, to carry the weapons, or by persons who are authorized to carry the weapons pursuant to Section 14502 of the Corporations Code, while actually engaged in the performance of their duties pursuant to that section.

(3) Harbor police officers designated pursuant to Section 663.5 of the Harbors and Navigation Code.

(d) Subdivision (a) shall not apply to any of the following who have been issued a certificate pursuant to Section 12033. The certificate shall not be required of any person who is a peace officer, who has completed all training required by law for the exercise of his or her power as a peace officer, and who is employed while not on duty as a peace officer.

(1) Guards or messengers of common carriers, banks, and other financial institutions while actually employed in and about the shipment, transportation, or delivery of any money, treasure, bullion, bonds, or other thing of value within this state.

(2) Guards of contract carriers operating armored vehicles pursuant to California Highway Patrol and Public Utilities



Commission authority (A) if hired prior to January 1, 1977, or (B) if hired on or after January 1, 1977, if they have completed a course in the carrying and use of firearms which meets the standards prescribed by the Department of Consumer Affairs.

(3) Private investigators and private patrol operators who are licensed pursuant to Chapter 11.5 (commencing with Section 7512) of, and alarm company operators who are licensed pursuant to Chapter 11.6 (commencing with Section 7590) of, Division 3 of the Business and Professions Code, while acting within the course and scope of their employment.

(4) Uniformed security guards or night watch persons employed by any public agency, while acting within the scope and course of their employment.

(5) Uniformed security guards, regularly employed and compensated in that capacity by persons engaged in any lawful business, and uniformed alarm agents employed by an alarm company operator, while actually engaged in protecting and preserving the property of their employers or on duty or en route to or from their residences or their places of employment, and security guards and alarm agents en route to or from their residences or employer-required range training. Nothing in this paragraph shall be construed to prohibit cities and counties from enacting ordinances requiring alarm agents to register their names.

(6) Uniformed employees of private patrol operators and private investigators licensed pursuant to Chapter 11.5 (commencing with Section 7512) of Division 3 of the Business and Professions Code, while acting within the course and scope of their employment.

(e) In order to determine whether or not a firearm is loaded for the purpose of enforcing this section, peace officers are authorized to examine any firearm carried by anyone on his or her person or in a vehicle while in any public place or on any public street in an incorporated city or prohibited area of an unincorporated territory. Refusal to allow a peace officer to inspect a firearm pursuant to this section constitutes probable cause for arrest for violation of this section.

(f) As used in this section, “prohibited area” means any place where it is unlawful to discharge a weapon.

(g) A firearm shall be deemed to be loaded for the purposes of this section when there is an unexpended cartridge or shell, consisting of a case that holds a charge of powder and a bullet or shot, in, or attached in any manner to, the firearm, including, but not limited to, in the firing chamber, magazine, or clip thereof attached to the firearm; except that a muzzle-loader firearm shall be deemed to be loaded when it is capped or primed and has a powder charge and ball or shot in the barrel or cylinder.

(h) Nothing in this section shall prevent any person engaged in any lawful business, including a nonprofit organization, or any

officer, employee, or agent authorized by that person for lawful purposes connected with that business, from having a loaded firearm within the person's place of business, or any person in lawful possession of private property from having a loaded firearm on that property.

(i) Nothing in this section shall prevent any person from carrying a loaded firearm in an area within an incorporated city while engaged in hunting, provided that the hunting at that place and time is not prohibited by the city council.

(j) (1) Nothing in this section is intended to preclude the carrying of any loaded firearm, under circumstances where it would otherwise be lawful, by a person who reasonably believes that the person or property of himself or herself or of another is in immediate, grave danger and that the carrying of the weapon is necessary for the preservation of that person or property. As used in this subdivision, "immediate" means the brief interval before and after the local law enforcement agency, when reasonably possible, has been notified of the danger and before the arrival of its assistance.

(2) A violation of this section is justifiable when a person who possesses a firearm reasonably believes that he or she is in grave danger because of circumstances forming the basis of a current restraining order issued by a court against another person or persons who has or have been found to pose a threat to his or her life or safety. This paragraph may not apply when the circumstances involve a mutual restraining order issued pursuant to Division 10 (commencing with Section 6200) of the Family Code absent a factual finding of a specific threat to the person's life or safety. It is not the intent of the Legislature to limit, restrict, or narrow the application of current statutory or judicial authority to apply this or other justifications to defendants charged with violating Section 12025 or of committing other similar offenses.

Upon trial for violating this section, the trier of fact shall determine whether the defendant was acting out of a reasonable belief that he or she was in grave danger.

(k) Nothing in this section is intended to preclude the carrying of a loaded firearm by any person while engaged in the act of making or attempting to make a lawful arrest.

(l) Nothing in this section shall prevent any person from having a loaded weapon, if it is otherwise lawful, at his or her place of residence, including any temporary residence or campsite.

SEC. 9. It is the intent of the Legislature that this act shall not be construed to confer any authority, entitlement, or privilege in law, except for those changes specifically made by this act pertaining to peace officers as defined in subdivisions (b) and (c) of Section 830.2 of the Penal Code and subdivision (a) of Section 830.33 of the Penal Code.

SEC. 10. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

SEC. 11. (a) Section 6 of this act shall become operative only if Section 190 of the Penal Code, as amended by Section 1 of Chapter 413 of the Statutes of 1997, is rejected by the voters at the statewide general election held in 1998, in which case Section 7 of this act shall not become operative and shall not be submitted to the voters.

(b) Section 7 of this act shall become operative if Section 190 of the Penal Code, as amended by Section 1 of Chapter 413 of the Statutes of 1997, is approved by the voters at the statewide general election held in 1998, in which case Section 6 of this act shall not become operative and shall not be submitted to the voters.

SEC. 12. Sections 6 and 7 of this act affect an initiative statute and shall become effective only when submitted to, and approved by, the voters pursuant to subdivision (c) of Section 10 of Article II of the California Constitution and in accordance with the provisions of Section 12 of this act.

